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11	UNITED STATES DISTRICT COURT		
12 13	WESTERN DISTRICT OF WASHINGTON AT TACOMA		
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15	UNITED STATES OF AMERICA,	NO. C05	
16	Plaintiff - Appellee,		05-5828JET
17	v.	ORDER	
18	JAMES L. MCPHADEN,		
19	Defendant - Appellant.		
20			
21	THIS MATTED games on before the above	a antitlad Court un	on remand from the Ninth
22	THIS MATTER comes on before the above-entitled Court upon remand from the Ninth		
23	Circuit Court of Appeals.  The Ninth Circuit Court of Appeals has directed the district court to issue or decline to issue		
24	The Ninth Circuit Court of Appeals has directed the district court to issue or decline to issue a certificate of appealability in C05-5517JET.		
25	a cerement of appealability in CO3-33173D1.		
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1	Having considered the entirety of the record and files herein, it is hereby		
2	ORDERED that the court declines to issue a Certificate of Appealability because Defendant		
3	McPhaden has failed to make "a substantial showing of the denial of a constitutional right." 28		
4	U.S.C. §2253(c)(2).		
5	IT IS SO ORDERED.		
6	The clerk of the court is instructed to send uncertified copies of this Order to all counsel of		
7	record.		
8	DATED this 28sth day of September, 2005.		
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10	/s JACK E. TANNER		
11	JACK E. TANNER		
12	SR. UNITED STATES DISTRICT JUDGE		
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